

REPORT OF THE CAPE LIGHT COMPACT ON ITS ENERGY EFFICIENCY PLAN

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Cape Light Compact

Barnstable, Massachusetts

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This Report accompanies the filing of the "Cape Light Compact Energy Efficiency Plan" ("Plan") with the Department of Telecommunications and Energy ("DTE") pursuant to G.L. c. 164, §134(b)("Section 134(b)"). As required by Section 134(b), the Compact has filed its Plan for certification by the DTE. The Compact's technical filing includes the Plan itself; this Report; and a statement from Tim Woolf of Synapse Energy Economics, Inc., the consultant who assisted the Compact in drafting the Plan.

The Compact is also filing three legal documents: (1) a petition to approve the Plan; (2) a memorandum regarding the procedures that the Compact suggests should apply to review of its filing; and (3) a legal memorandum demonstrating that the Compact is "establishing a load aggregation program" within the meaning of Section 134(b).

Background of the Cape Light Compact⁽²⁾

The Cape Light Compact was formed in 1997, after two years of study and votes by town meetings, boards of selectmen and county commissioners. Initially, the Compact included

all 15 towns in Barnstable County and the county itself. Later, the six towns on Martha's Vineyard (Dukes County) and Dukes County itself voted to join the Compact.

The Compact operates under a formal inter-governmental agreement among the participating towns and counties. (The Inter-Governmental Agreement was included in Volume II, Tab 1 of the Compact's initial filing in DTE 00-47.) Each member has a voting representative on the Compact's Board. Many towns have appointed alternate members to assure constant participation. The primary purpose of the Compact is to protect and advance the interests of residential, commercial and industrial consumers in a competitive electric supply market. To carry out this purpose, the Compact has three major programs: the Community Choice Power Supply program, through which the Compact has aggregated the load of consumers in its territory and will provide a competitive source of supply at attractive prices; its Energy Efficiency Program, under which the Compact intends to use funds collected under statutory mandate (G.L. c. 25, § 19) to promote energy efficiency and reduce energy bills; and its Consumer Advocacy and Education Program under which the Compact represents consumers on a variety of utility issues. The Compact is now filing its Energy Efficiency Plan so that it can gain access to a *pro rata* share of the funds collected under G.L. c. 25, §19 and begin delivering cost-effective energy efficiency programs to the more than 180,000 customers within the Compact's territory.

The Compact is formally governed by its Board, which includes representatives from each of the participating towns and counties. The Board oversees the development of general policy and budget matters. The Board also works through various committees, including an Energy Efficiency Committee that has overseen the development of the Plan and which will monitor its implementation. The Compact relies on Barnstable County to provide necessary fiscal and administrative services, and upon legal and technical consultants to provide a range of advice and assistance.

Overview of Section 134 (Municipal Aggregation and Energy Efficiency)

Section 134 allows municipalities, or groups of municipalities such as the Cape Light Compact, the opportunity to develop municipal load aggregation programs. A municipality which "is establishing a load aggregation program" may develop and implement an Energy Efficiency Plan. A municipal aggregator must obtain the Department's certification that its Plan is "consistent with any state energy conservation goals" in order to gain access to energy efficiency funds collected by distribution companies pursuant to G.L. c. 25, §19.⁽³⁾

The Compact meets the requirement that it is "establishing a load aggregation program." The Department formally approved the Compact's aggregation program on August 10, 2000, in DTE 00-47.⁽⁴⁾ The Compact now seeks the Department's certification that its Plan is consistent with state energy conservation goals. The Compact plans to begin offering energy efficiency programs to customers by July 1, 2001. In order to do so, the Compact seeks DTE approval of its Plan no later than March 1, 2001, providing the Department three months to reach its decision. The Compact seeks prompt approval from

the Department because the collection of energy efficiency funds under G.L. c. 25, §19 sunsets at the end of 2002 unless extended by the legislature. If the Compact receives the Department's certification by March 1, 2001 and begins operating programs on July 1, 2001, it will have at least eighteen months to operate programs funded under G.L. c. 25, § 19. Should the legislature reauthorize the funding, the Compact expects to administer the energy efficiency funds beyond that date.

The Compact's chief procurement officer will soon be recommending to the Board of the Compact that it choose Honeywell DMC as the management contractor to oversee its programs. While having the management contractor on board will allow the Compact to begin the transition effort more readily, the Compact and Honeywell anticipate that it will take up to three months to sign contracts with all of the other vendors and sub-contractors, and to conduct the extensive public education and outreach effort that will lead to a smooth transition of programs from Commonwealth Electric Company to the Compact.

Development of the Plan

The Compact retained the services of Synapse Energy Economics ("Synapse") to assist it in drafting the Plan. The Compact is separately filing a statement from Tim Woolf of Synapse that fully describes the components of the Plan; program budgets; cost/benefit analyses; and related issues. Mr. Woolf also assisted the Compact in disseminating the Plan for public review and comment.

The final version of the Plan reflects a long, highly-public process of circulating drafts, soliciting comments, and revising the drafts based on comments received. The Compact developed a first draft (called the "Review Copy") of its Plan on August 13, 1998. The Review Copy was provided to the Division of Energy Resources ("DOER"); to the Department's staff; to Commonwealth Electric; to all of the towns within the Compact; to a number of parties that participated in Commonwealth's own DSM collaborative (the "Stakeholders" group); and to other interested members of the public.

Over a period of several months, the Compact directly solicited comments from these groups and individuals by sending them a copy of the Plan, making follow-up telephone calls, and hosting public hearings or meetings both on Cape Cod and at the Saltonstall Building in Boston.

Starting in August 1998, Compact representatives held on-going meetings and discussions with DOER regarding both the Energy Efficiency Plan and Aggregation Plan in order to make sure that the former Plan is consistent with state energy conservation goals articulated by DOER. On November 16, 2000, DOER wrote to the Compact that "the Compact's Energy Plan is wholly consistent with state energy conservation goals," and added that "DOER endorses this plan as innovative and well planned."⁽⁵⁾

Representatives of the Compact also met directly with Commonwealth Electric at its Wareham offices to discuss the Plan in late 1998 and early 1999. On December 22, 1998, Commonwealth Electric provided the Compact with a six-page memo of comments

regarding the Plan. At the outset of the memo, the Company "congratulat[ed] the Compact on the many positive and well-thought out aspects of the Plan." Many of the Company's specific comments were incorporated into the February 5, 1999 revision of the Plan. During the latter half of 1999 and much of 2000, the Compact did not make further revisions as it instead devoted its efforts to negotiating a power supply contract and obtaining the Department's approval for its Aggregation Plan.

At all times, the Compact has been eager to receive comments from any party. The current version of the Plan reflects a number of the comments that were received.

As of the date of filing this Report, nineteen (19) of the Compact's twenty-one (21) member towns have formally voted to approve the energy efficiency plan. The Town of Provincetown expects to hold a public hearing on the Plan in February, 2001 and to put the Plan before Town Meeting during April, 2001. The Town of Orleans has a special Town Meeting in February, 2001. The Compact fully expects that Orleans and Provincetown, like all other Compact towns, will approve the Plan. The text of the Plan itself, however, is complete. The Compact awaits DTE certification that the plan is consistent with state energy conservation goals so that it can begin program implementation on July 1, 2001, at least eighteen months before the statutory funding provision sunsets.

Funding

Under Section 134(b), a municipal aggregator with an approved energy plan may "expend moneys from the demand side management system benefits charges or line charges [collected under G.L. c. 25, §19] in an amount not to exceed that contributed by retail customers within said municipality or group [of] municipalities." The Compact seeks access to all of the funds collected under G.L. c. 25, §19 in the twenty-one (21) Compact towns, conditioned on the Compact filing proof of the Orleans and Provincetown votes prior to July 1, 2001.⁽⁶⁾ Allowing administration of the funds to shift among Commonwealth Electric, the Compact, or even third-party suppliers based on which entity provides generation supply to the customer would only cause confusion among customers as well as increase administrative costs significantly. Distribution companies, such as Commonwealth Electric, already provide energy efficiency services to all customers within their territories, including customers that receive generation supply from a third party. The Compact believes that it should similarly provide these services to all customers in its territory, once the Department certifies its Plan.

The Compact seeks access to the energy funds that will be collected starting in July 1, 2001. However, as explained more fully in the statement of Tim Woolf, the Compact seeks to receive some of the 2001 funds starting in April, 2001, in order to allow for a smooth transition from Commonwealth Electric to the Compact. While the Compact will begin spending money in April 2001, its expenditures for the nine month period April 2001 to December 31, 2001 will not exceed the amount of funds collected from Cape Cod and Martha's Vineyard customers for the six-month period from July 1, 2000 to December 31, 2000, as more fully explained in Mr. Woolf's statement.

Starting Date for Implementing Energy Efficiency Plan, Relative to Power Supply

As noted, the Compact plans to begin offering energy efficiency services on July 1, 2001. Under its power supply agreement with Select Energy, Inc. ("Select"), Select may postpone initiation of competitive power supply to Compact customers if market conditions make it uneconomic to offer supply at the prices specified in the contract. Select has already provided the Compact notice that it will not be providing supply to customers in December 2000, the initial target date for initiation of service. Given standard offer prices that are still below market costs and the lack of a well-functioning wholesale market, the Compact cannot guarantee that customers will begin receiving electricity from its supplier prior to July 1, 2001. The Compact should still be allowed access to energy efficiency funds as of that date, for the following reasons: First, the plain language of Section 134 allows the Compact to access energy efficiency funds now. The statute requires that a municipal aggregator be in the process of "establishing a load aggregation program," not that the aggregator has already established its aggregation program and delivered energy to customers. DOER, which has "authority to oversee and coordinate ratepayer-funded energy efficiency programs" under G.L. c. 25A, §11G, concurs with the Compact that it is "establishing an energy efficiency program" and that its Plan is consistent with the state energy conservation goals articulated by DOER. In a letter to the Compact dated November 16, 2000 (Attachment A to the Compact's Memorandum of Law), DOER reiterated five criteria it believes a municipal aggregator must meet to be "establishing a load aggregation program" and eligible to apply for energy efficiency funding⁽⁷⁾:

- Authorization of town meeting to proceed with municipal aggregation;
- Consultation with DOER before submitting an aggregation plan;
- Filing the aggregation plan with the Department for its approval;
- Holding of a public hearing by the Department; and
- Approval of the aggregation plan by the Department.

The Compact has met all of these requirements. DOER notes that while the Compact is not yet delivering electricity to customers, it filed a model energy supply contract with the Department and this is sufficient to meet the requirements of law.

Second, it is already the case that administration of energy efficiency funds does not depend on the individual customer's source of generation supply. Just as Commonwealth Electric now administers all energy efficiency funds within its territory, including to customers who receive competitive supply from a third party, the Compact, once it receives DTE approval, will administer those funds for all customers within its territory, regardless of the customer's supplier. Both the law and sound public policy support unified administration of energy efficiency funds in a particular geographic area.

Third, the legislature contemplated that a municipal aggregator could deliver energy efficiency programs before it actually delivers power supply to its aggregated customers. This is clear both from the plain language the legislature chose in drafting Section 134(b)

and from discussions the Compact has had with key drafters of the 1997 Restructuring Act. See Letter of Rep. Bosley, House Chair of Government Regulations to Compact Chairman Robert Mahoney (Attachment B to the Compact's Memorandum of Law).

If the Department certifies the Compact's Plan and allows it access to the energy efficiency funds, it makes no sense to divide administration of the program between Commonwealth Electric and the Compact, depending on where customers actually obtain their power supply. This will needlessly increase administrative costs, confuse customers, and diminish energy savings arising from expenditure of the funds. Commonwealth has no vested rights to these funds. These are ratepayer-contributed funds collected through a systems benefits charge. Each of the Compact's member towns, with the active involvement of its selectmen and citizens, approved the Compact's energy plan in accordance with the democratic and public mechanisms included in Section 134(b).⁽⁸⁾ The wishes of the towns and their citizens should be respected.

Even after the Compact's supplier begins to provide power supply to customers, some customers will no doubt opt to be served by Commonwealth Electric or a third-party generation supplier. The fact that a particular customer has chosen, for example, the XYZ generation company should not affect which entity administers the energy efficiency funds. If competition succeeds, as the Compact hopes it does, customers will be choosing among a broad array of generation suppliers, including the Compact's generation supplier, Commonwealth Electric (via standard offer or default service), and third-party suppliers. The number of customers being served by a particular generation supplier (including, for these purposes, Commonwealth Electric) will constantly be shifting. It makes no sense for administration of energy efficiency funds to shift in tandem with these changes. Compact consultant Tim Woolf addresses this issue in more detail in his statement.

Advantages of the Compact's Program

The Compact has a unique ability to get the message out to consumers that investing in energy efficiency makes sense for the consumers themselves, for the environment, and for the economy of Cape Cod and Martha's Vineyard. By getting out the message, the Compact will be able to promote the types of market transformation that can have large impacts in the long run. Because the Compact is comprised of relatively small towns and no large cities, local municipal and county governments have a great ability to reach the average citizen with information about energy efficiency. The Compact expects to reach a much larger and broader audience than utility-run programs have traditionally reached. The Compact plans to provide regular updates to the public at televised boards of selectmen meetings; to use local cable stations and newspapers to educate the public about the importance and availability of energy efficiency programs; to avail itself of the many means through which municipalities disseminate information to their citizens; and to develop a Web site that customers and interested members of the public can access. Further, because the Compact is not in the business of selling kilowatt-hours, it has no inherent biases against conserving electricity. It also has no interest in earning any "incentives" on the energy efficiency funds.⁽⁹⁾ From the Compact's perspective, the less money spent on electricity utilized in homes and businesses, the better off the local economy will be, particularly in light of the fact that electricity prices are higher on the Cape and Vineyard than elsewhere in the state. Finally, the Compact plans to spend a

higher percentage of the available funding on direct programs and incentives to customers, and a smaller percentage on such overhead costs as administration, incentives, and the like.⁽¹⁰⁾ In his statement, Mr. Woolf addresses in more detail the advantages of the Compact administering energy efficiency funds.

Conclusion

The Compact has been engaged in developing its Aggregation Plan and Energy Efficiency Plan for more than two years, with the active involvement of citizens, elected officials, state agencies, and members of its governing board. Implementation of the Plan will provide significantly increased benefits to customers within the Compact's territory. The Compact respectfully requests that the Department promptly certify its plan as being consistent with state energy conservation goals and authorize transfer of a *pro rata* portion of the energy efficiency funds collected by Commonwealth Electric Company to the Compact. The Compact seeks prompt certification of its plan so that it may begin program implementation by July 1, 2001, well in advance of the current December 31, 2002 sunset date for energy efficiency funding under G.L. c. 25, §19.

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1. This Report was prepared by the Cape Light Compact under the supervision of Margaret T. Downey, Assistant County Administrator for Barnstable County, who serves as the Compact's staff person, and Barry Worth, Chair of the Compact's Energy Efficiency Committee and the Town of Harwich Representative on the Compact's Governing Board. Mr. Worth spent more than three decades working in the utility industry, including in the management of customer service and energy efficiency programs.
2. The Compact provided a more detailed description of its background and history in DTE 00-47, "Report in Support of Aggregation Plan."
3. In a letter dated November 16, 2000 from Division of Energy Resources Commissioner David O'Connor to Cape Light Compact Chairman Robert Mahoney (Attachment A), DOER noted: "In our opinion the Compact's Energy Plan is wholly consistent with state energy conservation goals. DOER endorses this plan as innovative and well planned."
4. In a letter dated November 27, 2000, Rep. Bosley, House Chairman of the Government Regulations Committee, noted the "General Court intended that municipalities who have received approval of their energy plan from DTE have indeed established a load aggregation program and are eligible upon certification from DTE to implement their energy plan."
5. DOER has the authority to "oversee and coordinate ratepayer-funded energy efficiency

programs," under G.L. c. 25A, §11G, and requires municipal aggregators who are developing energy plans to consult with it, under 225 CMR 11.04(4).

6. In its July 31, 1998 ruling on the Cambridge Electric/Commonwealth Electric Five-Year Energy Efficiency Plan (DTE 98-16), the Department noted that its "approval of the ComElectric Plan is subject to an adjustment in accordance with G.L. c. 164, §134(b) at such time as the Department may approve a municipal energy plan for a municipality or group of municipalities in either of the company's service territories."

7. DOER first specified these criteria in a December 9, 1998 letter to the DTE.

8. Two Compact towns, Orleans and Provincetown, will not formally vote on the energy plan until the spring of 2001.

9. Distribution companies may earn "shareholder incentives" for operating energy efficiency programs, under DTE 98-100, Final Guidelines §5. Apart from shareholder incentives, one utility has sought adjustments ("lost base revenues") for revenues lost when energy efficiency programs succeed, thus dampening sales growth. *Fitchburg Gas & Electric*, DTE 98-48-Phase I.

10. In DTE 98-100, p. 22, the Department stressed that "program administrators still need to work to reduce administrative costs and to increase monies that are put into activities that provide direct customer benefits." The Compact fully embraces this notion.